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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

STARLA BRAHAM,

Plaintiff,

v.

AUTOMATED ACCOUNTS, INC, a
Washington Corporation , and
MICHELLE DOE and JOHN DOE,
husband and wife and the marital
community comprised thereof.

Defendants.

Case No.: CV-10-385-EFS

PLAINTIFF'S RESPONSE TO
DEFENDANTS' STATEMENT OF
FACTS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

1. Plaintiff's Fact #1: Contrary to Defendants' fact # 10, Ms. Braham did not
"acknowledge Ms. Doe's politeness on the telephone" in any general sense.
Rather, Ms. Braham's was referring specifically to the telephone call initially

1 received from Ms. Bull in late 2008 and was not generalizing to every phone
2 call with Ms. Bull. Ms. Braham clarified that Ms. Bull used “manners” but
3 that Ms. Bull wrongly accused her of lying and “was very short”. (Braham
4 Dep. 23:4-15; 36:4-22.)

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6 2. Plaintiff’s Fact #2: Contrary to Defendants’ fact # 3, Ms. Braham did not
7 “decline[] to pay the bill”. Ms. Braham initially believed that she was not
8 obligated to pay the hospital bill but agreed to make payments as soon as she
9 was contacted by the Defendants. (Braham Dep. 24:19-25; 25:1-23.) Despite
10 trying economic hardship and challenging life circumstances, the Plaintiff
11 made a decided effort to pay the Defendant every month as agreed. (Braham
12 Dep. 28:18-25; 29:1-25; 30:1-25.)

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15 3. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 5, Automated Accounts,
16 Inc. has been sued multiple times in the Eastern District of Washington for
17 violating the Fair Debt Collection Practices Act, including at least one class
18 action settled by the Defendant. *See CS-99-0270-EFS in the Eastern District*
19 *of Washington.*

20
21
22 4. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 6 Automated Accounts has
23 been sued multiple times in the Eastern District of Washington for violating
24 the Fair Debt Collection Practices Act, including at least one class action
25

1 settled by the Defendant. *See CS-99-0270-EFS in the Eastern District of*
 2 *Washington.*

3
 4 5. Plaintiff's Fact #1: Contrary to Defendants' fact # 14, Ms. Bull never disclosed
 5 to Plaintiff that she "does not know precisely what happens after a claim is
 6 sent to the legal department". *See Generally Braham Depo. And Bull Depo.*

7 However, Ms. Bull did specifically threaten Ms. Braham that Automated
 8 Accounts was going to garnish her wages, despite the fact that Automated did
 9 not have a judgment or even a pending lawsuit against Ms. Braham. (Braham
 10 Depo. 34:7-24.)

11
 12 6. Plaintiff's Fact #1: Contrary to Defendants' fact # 15, when asked by Ms.
 13 Braham what "legal process" means, Ms. Bull provided the legal advice to Ms.
 14 Braham that "legal process" means garnishing Ms. Braham's wages. (Braham
 15 Depo., 35:7-19.) Also, Defendants' Statement of Fact #15 directly conflicts
 16 with Defendants' Statement of Fact #39.

17
 18 7. Plaintiff's Fact #1: Contrary to Defendants' fact #15, the "process of legal
 19 action" referred to by the Defendants in fact #15 refers only to an internal
 20 policy at Automated Accounts, Inc. It is not necessarily related to
 21 "commencing an action" as the term is defined by FRCP 4.

22
 23 8. Plaintiff's Fact #1: Contrary to Defendants' fact # 18, regardless of Ms. Bull's
 24 familiarity with "steps or procedures," when asked by Ms. Braham what "legal
 25

1 process” means, Ms. Bull advised Plaintiff that “legal process” means
2 garnishing Ms. Braham’s wages. (Braham Depo. 35:7-19.)
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5 9. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 22, in November 2009, Ms.
6 Bull told Ms. Braham that she was going to garnish Ms. Braham’s wages.
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9 10. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 23, in the November 2009
10 conversation between Ms. Braham and Ms. Bull, Ms. Bull did “mention
11 garnishment”. (Braham Dep. 34:14-21.)
12
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14 11. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 25, Plaintiff’s
15 acknowledgement that “Michelle was courteous” was in response to a question
16 that was unrelated to the November 2, 2011 conversation in which Ms. Bull
17 threatened to garnish the Plaintiff’s wage. (Braham Dep. 27:22-28:17.)
18

19 12. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 26, Plaintiff’s testimony that
20 she “received a letter each month from Automated Accounts” was in response
21 to a question encompassing a specific period of time. Plaintiff did not received
22 a letter each month indefinitely. (Braham Dep. 27-29.)
23

24 13. Plaintiff’s Fact #1: Contrary to Defendants’ fact # 27, Plaintiff called
25 Automated Accounts, Inc. when she was unable to make a payment on a

1 previously agreed date and agree to pay by a later agreed date. (Braham Dep.
2 30:1-4.)

3
4 14.Plaintiff's Fact #1: Contrary to Defendants' fact # 29, in October, 2009, Ms.
5 Braham authorized Automated Accounts Inc. to withdraw money from her
6 bank account. Ms. Braham had timely deposited adequate funds in her bank
7 for withdrawal by Automated Accounts, Inc. but the payment did not clear
8 because the bank held the funds in a "pending" status. (Braham Dep. 31.)

9
10 15.Plaintiff's Fact #1: Contrary to Defendants' fact # 32, Plaintiff generally
11 denies this allegation as it is subjective, inconsistent with Ms. Braham's
12 testimony, and provides no context. (Braham Dep.)

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14 16.Plaintiff's Fact #1: Contrary to Defendants' fact # 33, the statements by Ms.
15 Bull and Ms. Braham in their November 9, 2009 conversation are found at
16 Braham Dep. 34:14-21.

17
18 17.Plaintiff's Fact #1: Contrary to Defendants' fact # 37, the statements by Ms.
19 Bull and Ms. Braham in their November 9, 2009 conversation are found at
20 Braham Dep. 34:14-21.

21
22 18.Plaintiff's Fact #1: Contrary to Defendants' fact # 38 the statements by Ms.
23 Bull and Ms. Braham in their November 9, 2009 conversation are found at
24 Braham Dep. 34:14-21.

1 19.Plaintiff's Fact #1: Contrary to Defendants' fact # 39, Defendants' Statement
2 of fact #39 directly conflicts with Defendants' Statement of Fact #15

3 20.Plaintiff's Fact #1: Contrary to Defendants' fact # Defendants' Statement of
4 fact #42 directly conflicts with Defendants' Statement of Fact #15. However,
5 Plaintiff admits that "Ms. Doe did her best to correctly answer Ms. Braham's
6 concern in so much as she advised Ms. Braham that she intended to garnish
7 Ms. Braham's wages. (Braham Dep. 34:14-21.)

8 21.Plaintiff's Fact #1: Contrary to Defendants' fact # 43, it directly conflicts with
9 Defendants' fact # 15 and 16. Further, Ms. Bull would not "have been lying"
10 to Ms. Braham if she would have stated that she "does not know precisely
11 what happens after a claim is sent to the legal department" (Defendants' Fact
12 #14; Bull Dep., 93:15-94:22) or referred the call to Automated Accounts' legal
13 department (Defendants' Fact #15; Bull Dep. 42:18-22).

14 22.Plaintiff's Fact #1: Contrary to Defendants' fact # 45 the statements by Ms.
15 Bull and Ms. Braham in their November 9, 2009 conversation are found at
16 Braham Dep. 34:14-21.

17 23.Plaintiff's Fact #1: Contrary to Defendants' fact # 47, Plaintiff was responding
18 to a question from Defense counsel, wherein counsel misstated Ms. Bull's
19 words to the Plaintiff. (Braham Decl. ¶ 16.)

1 24.Plaintiff's Fact #1: Contrary to Defendants' fact # 51, although there is a
 2 record of the November 2, 2009 conversation, it is not completely or
 3 accurately recorded. (Braham Dep. 34:14-21.) Furthermore, the record does
 4 not describe Ms. Braham's understanding of Ms. Bull's comments.
 5

6 25.Plaintiff's Fact #1: Contrary to Defendants' fact # 69, Mr. Braham testified
 7 regarding Ms. Braham being unusually upset after her phone conversation
 8 with Ms. Bull on November 2, 2009. (See Larry Braham Dep. 44:8-18.)
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10 26.Plaintiff's Fact #1: Contrary to Defendants' fact # 70, Mr. Braham testified
 11 regarding Ms. Braham being unusually upset after her phone conversation
 12 with Ms. Bull on November 2, 2009. (See Larry Braham Dep. 44:8-18.)
 13

14 27.Plaintiff's Fact #1: Contrary to Defendants' fact # 72, Ms. Braham will not
 15 seek damages relating to credit reporting at trial on this matter and as a result
 16 of Automated Account' credit reporting as of September 20, 2011. (Braham
 17 Dep. 93.)
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 19
 20

21 Dated the 6th day of January, 2012.
 22

23 ***Kirk D. Miller, P.S.***

24 /s/ Kirk Miller

25 Kirk D. Miller
 WSBA # 40025
 Attorney for Plaintiff

CM/ECF

I hereby certify that on the 6th day of January, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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s/Kirk D. Miller

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